

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

AARON A WEBB,

Plaintiff,

v.

WARDEN WILLIAM GITTERE,

Defendant.

Case No. 3:19-cv-00305-MMD-WGC

ORDER

Plaintiff was an incarcerated person when he filed a *pro se* civil rights complaint filed under 42 U.S.C. § 1983. On May 18, 2020, this Court issued an order directing Plaintiff to file his updated address and a non-prisoner application to proceed *in forma pauperis* ("IFP Application") with this Court within 30 days. (ECF No. 8.) The 30-day period has now expired, and Plaintiff has not filed his updated address, filed an IFP Application, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure

///

1 to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)  
2 (affirming dismissal for lack of prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey  
4 a court order, or failure to comply with local rules, the court must consider several factors:  
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously  
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
18 the court's order will result in dismissal satisfies the "consideration of alternatives"  
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d  
20 at 1424. The Court's order requiring Plaintiff to file his updated address and file an IFP  
21 Application with the Court within 30 days expressly stated: "IT IS FURTHER ORDERED  
22 that, if Plaintiff does not timely comply with this order, the Court will dismiss this case  
23 without prejudice." (ECF No. 8 at 2.) Thus, Plaintiff had adequate warning that dismissal  
24 would result from his noncompliance with the Court's order to file his updated address  
25 and an IFP Application within 30 days.

26 ///

27 ///

28 ///

1 It is therefore ordered that this action is dismissed without prejudice based on  
2 Plaintiff's failure to file an updated address and a non-prisoner application to proceed *in*  
3 *forma pauperis* in compliance with this Court's May 18, 2020, order.

4 It is further ordered that the Clerk of Court enter judgment accordingly.

5  
6 DATED THIS 8<sup>th</sup> day of September 2020.

7   
8 \_\_\_\_\_  
9 MIRANDA M. DU  
10 CHIEF UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28